

## **SECTION 14.25: CONFIDENTIALITY OF EMPLOYEE INFORMATION**

**Revised: 5/13**

As a public employer, the State of Iowa has the duty to keep certain employee information confidential while at the same time it must release certain employee information to the public upon request. The following guidelines should be used when determining whether employee information may be released.

Senate File 289 amended Iowa Code chapter 22, effective May 12, 2011. The information included in this section supersedes prior communications on this topic, including prior versions of this section and memorandums issued by the Iowa Department of Personnel in December 2000, February 2001, and July 2001.

Iowa Code chapter 22, known as the Open Records Act, governs the release of information to the public. Iowa Code section 22.2(1) provides that every person shall have the right to examine and copy public records and to publish or otherwise disseminate public records or the information contained therein. The exemptions to the release of information to the public are enumerated in Iowa Code section 22.7(11): "Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies."

### **Public Information**

In accordance with Iowa Code Section 22.7(11), the following information is considered public information and may be released to the public upon written request:

- The name and compensation of the employee, including any written agreement establishing compensation or any other terms of employment. Compensation means payment or an agreement to pay any money, thing of value, or financial benefit conferred in return for labor and services, plus the value of benefits conferred.
- The dates the individual was employed by the State.
- The positions the individual holds or has held while in employ of the State.
- Educational institutions attended by the employee, including diplomas and degrees earned.
- The names of previous employers, positions previously held, and the dates of previous employment.
- The fact that an employee was discharged as the result of a final disciplinary action upon the exhaustion of all applicable contractual, legal, and statutory remedies.

Clymer v. City of Cedar Rapids, 601 N.W.2d 42 (Iowa 1999) clarified the definition of compensation to include the following information: the accrual, utilization, and balances of vacation, sick leave, and compensatory time. The information is now treated as public information and subject to release upon written request.

### **Confidential Information**

The following information is considered confidential and may not be released to the public:

- Employee's home address, gender, and date of birth.
- Information pertaining to discipline of an employee, except as provided above concerning the discharge of an employee.
- Job performance or job evaluations.
- Individual civil service examination scores.

- Reasons for utilization of sick leave.
- Medical or mental health records.
- Social Security number.
- Financial institution information.
- Payroll deductions, voluntary or mandated.
- Taxable wages (gross wages and other compensation are not confidential).

### **Responding to Public Inquires about Employment-Related Matters**

If in doubt as to the agency's responsibility to disclose information sought by the public, seek advice from the agency's legal counsel and/or attorney general.

In responding to requests for records or information from the public, an agency is not required to immediately respond to a public records request if the confidentiality of the record is in question. An agency may make a reasonable inquiry as to its obligations prior to making a decision about releasing information. A reasonable delay for this purpose cannot exceed twenty (20) calendar days and ordinarily should not exceed ten (10) business days. Iowa Code section 22.8(4)(d).

### **Inquiries about the Discharge of an Employee**

Senate File 289 amended Chapter 22 during the Eighty-Fourth General Assembly in 2011. The law provides that the fact an employee is discharged as the result of a final disciplinary action is subject to disclosure upon the exhaustion of all applicable contractual, legal, and statutory requirements. This includes only the acknowledgement that the employee has been discharged; it does not provide for the release of an investigatory report, the discharge letter, or other information surrounding the discharge.

Keep in mind, names and dates of employment are public information. While a particular discharge may still be in the contractual or legal process, it is appropriate to state that the employee is no longer employed by the agency, but the agency should refrain from disclosing the facts and circumstances of the termination of an employment relationship until after the exhaustion of the contractual and/or legal requirements. This may include contract or non-contract grievances. If there is a question about the status of a contract or non-contract grievance, contact the personnel officer assigned to the agency.

### **Inquiries about Disciplinary Matters Concerning an Employee**

Notwithstanding the information above, disciplinary information is personal information and should not be disclosed. Subject to review with appropriate legal counsel, an appropriate response to a public request about whether an investigation is being conducted or whether disciplinary action has been imposed is: Whether disciplinary action was or was not taken is not public information pursuant to Iowa Code section 22.7(11).

### **Inquiries about Whether an Employee Engaged in Criminal Activity**

Assuming the agency has written information about an employee's arrest or conviction, the information is likely confidential information under Iowa Code section 22.7(11). An appropriate response, subject to the advice of the agency's legal counsel, is that the agency cannot respond or comment about that arrest or conviction of an employee. Such information, however, is likely publicly available from court or law enforcement records. Agency personnel should not speculate on how criminal activity may or may not impact the discipline of the employee. If there is a statute that prohibits the employment of an individual convicted of a felony, the state agency may, but is not required to, comment on general procedures in place to address such issues, but should not discuss the facts and circumstances of any particular employee's situation.

### **Requests for Information about Compensation**

Information about an employee's total compensation, hourly rate of pay or annual salary is public information and must be released. This includes any special duty pay, extraordinary duty pay, incentive pay tied to performance, recruitment and retention pay, bonuses and other types of compensation.

### **Requests for Days and Hours Worked or the Use of Leave**

The following information is public record and subject to release:

- The dates and hours worked.
- The number of hours of accrued vacation or sick leave.
- The dates vacation or sick leave was used.

If payroll and/or personnel documents are requested, the agency must block out confidential information prior to release. Social security numbers cannot be released. Information about why an employee used sick leave is confidential information under section 22.7(11).

### **Summary**

This guidance is not intended to be inclusive of every possible request or situation that may arise. Agencies should seek advice from legal counsel and/or attorney general if questions arise about the obligation to disclose information.